

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LAMERLE SUNDY HUGHES,)	
)	
Plaintiff,)	
)	
vs.)	1:08-cv-101-SEB-JMS
)	
CUNA MUTUAL LONG TERM)	
DISABILITY INSURANCE and HORIZON))	
ONE FEDERAL CREDIT UNION,)	
)	
Defendants.)	
_____)	
)	
CUNA MUTUAL LONG TERM)	
DISABILITY INSURANCE,)	
)	
Counterclaim-Plaintiff,)	
)	
vs.)	
)	
LAMERLE SUNDY HUGHES,)	
)	
Counterclaim-Defendant.)	

ORDER GRANTING PARTIAL MOTION TO DISMISS

This cause is before the Court on the Partial Motion to Dismiss [Docket No. 39], filed by Defendant, Horizon One Federal Credit Union (“Horizon”), on September 29, 2008, pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff, Lamerle Sundy Hughes, brought this suit pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.*, alleging that she was improperly denied long

term disability benefits to which she was entitled under an employee welfare benefit plan.

Horizon contends that, because it is merely Plaintiff's employer, it is not a proper defendant in this case. We agree. Under well-established Seventh Circuit precedent, the only proper defendant in claims for benefits brought pursuant to § 1132(a)(1)(B) is the employee welfare benefit plan under which the participant claims an entitlement to benefits, here, Defendant Cuna Mutual Long Term Disability Insurance. See Neuma, Inc. v. AMP, Inc., 259 F.3d 864, 872 n.4 (7th Cir. 2001) ("We have continually noted that 'ERISA permits suits to recover benefits only against the Plan as an entity.'") (quoting Jass v. Prudential Health Care Plan, Inc., 88 F.3d 1482, 1490 (7th Cir. 1996)). Further, in her responsive briefing, Plaintiff concedes that Horizon is not a proper defendant here. Pl.'s Resp. at 2. Accordingly, we GRANT the Partial Motion to Dismiss as to Defendant Horizon One Federal Credit Union.

IT IS SO ORDERED.

Date: 05/15/2009



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Copies to:

Jennifer Jay Kalas
HINSHAW & CULBERTSON
jkalas@hinshawlaw.com

Renee J. Mortimer
HINSHAW & CULBERTSON
rmortimer@hinshawlaw.com

Bridget L. O'Ryan
O'RYAN LAW FIRM
boryan@oryanlawfirm.com

Daniel Keenan Ryan
HINSHAW & CULBERTSON
dryan@hinshawlaw.com

Amanda Lynn Yonally
O'RYAN LAW FIRM
ayonally@oryanlawfirm.com